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January 14, 2022

**Via Email:**  
***HamiltonCivilOffice@ontario.ca***

The Honourable Paul R. Sweeny  
Regional Senior Judge,  
Superior Court of Justice  
Hamilton Courthouse  
45 Main Street East  
Hamilton, ON L8N 2B7

Your Honour:

**Re: *Toombs et al v. WorkSafeBC et al.***  
**Court File No. CV-21-00076781-00CP**

I write in respect of the above-noted class proceeding which was commenced in Hamilton on August 16, 2021, to request that the proceeding be assigned to a Class Proceedings Judge.

The claim is brought by 25 individual plaintiffs and names 23 defendants, all of which are workers' compensation boards or tribunals across Canada.

I represent the (Ontario) Workplace Safety and Insurance Appeals Tribunal ("WSIAT"). Mr. Jean-Denis Belec represents the (Ontario) Workplace Safety and Insurance Board ("WSIB"). Mr. Gordon McKinnon represents 14 other named defendants from other provinces and territories, though he is not yet on record. This letter is written jointly on behalf of myself, Mr. Belec, and Mr. McKinnon.

Although 25 plaintiffs are named, all correspondence that we have received to date relating to this matter comes from Mr. Paul Taylor, the last named plaintiff. Mr. Taylor is a licensed paralegal in Ontario, and his name appears at the end of the Statement of Claim and on the backpage, apparently as representing all plaintiffs. (No contact information is provided for any other plaintiff). Paragraph 5 of the Statement of Claim (attached) asserts that Mr. Taylor will be acting as lead contact, and "self-representative representative" for all plaintiffs, "until such time as counsel can be found and approved by the Lead Plaintiffs to represent the Class Plaintiffs".

Mr. Taylor has a long history of litigating workers compensation benefit related matters in the Ontario courts. He was injured at work in 1997, and was awarded certain benefits from the WSIB. He contested many issues relating to his benefits before the WSIB and WSIAT, and his entitlements were fully and finally determined by these tribunals in a series of decisions from 2000 to 2008.

Following these decisions, Mr. Taylor brought an action against the WSIB and WSIAT in 2014, which was struck out in *Taylor v. Workplace Safety and Insurance Board*, 2017 ONSC 1223, appeal dismissed 2018 ONCA 108, leave to appeal denied 2020 CanLII 27698 (SCC). Mr. Taylor then brought two judicial review applications regarding entitlement to WSIB benefits. The first was brought in March 2018 of a WSIB decision of October 2017 which was dismissed in *Taylor v. The Workplace Safety Insurance Board*, 2018 ONSC 3791, appeal dismissed 2018 ONCA 771, leave to appeal denied 2020 CanLII 97863 (SCC). The second judicial review was of WSIAT's decisions in 2008, and this application was dismissed for excessive delay in *Taylor v. Pivotal Integrated HR Solutions*, 2020 ONSC 6108 (Div. Ct.), motion for reconsideration dismissed 2021 ONSC 7720 (Div. Ct.).

The present action is styled as a "Charter class action", and alleges that the defendants breached the *Charter* rights of Taylor and the other plaintiffs by denying them benefits. The plaintiffs seek \$45 billion in damages.

The WSIB has advised Mr. Taylor that it intends to move to strike the claim, and has also requested particulars, including the contact details of plaintiffs other than Mr. Taylor. WSIAT is also instructed to bring a motion to strike. Mr. McKinnon has advised that his clients have not been properly served *ex juris*, and that he contests the jurisdiction of the Court to grant the relief sought against them. Mr. Taylor, for his part, has advised that he intends to bring motions to authorize service of the out-of-province defendants, to have *amicus* counsel appointed, and to certify the proceeding.

Mr. Taylor has also commenced substantially similar class actions in the B.C. Supreme Court and the Alberta Supreme Court. We expect that similar proceedings will be filed in other provinces.

We respectfully request that this matter be assigned to a Class Proceedings Judge pursuant to s.34 of the *Class Proceedings Act, 1992* and the Consolidated Provincial Practice Direction. Case management by a Class Proceedings Judge will be helpful in sorting out the order and timing of the various motions. Once the matter has been assigned to a Class Proceedings Judge, we will request a case management conference at the earliest reasonable opportunity to address these matters.

We would be pleased to provide any other information that the Court may require. Thank you for your consideration of this matter.

Yours very truly,  
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP



Andrew Lokan  
AL:SB

c. Jean-Denis Belec, counsel to WSIB

Gordon McKinnon, counsel to:

The Workers' Compensation Board of British Columbia  
(WorkSafeBC),  
The British Columbia Workers' Compensation Appeal Tribunal,  
The Workers' Compensation Board of Saskatchewan,  
The Saskatchewan WCB Appeal Tribunal,  
The Workers Compensation Board of Manitoba,  
The Manitoba Appeal Commission,  
The New Brunswick Workplace Health, Safety and Compensation  
Commission (WorksafeNB),  
The New Brunswick Workers' Compensation Appeals Tribunal,  
The Newfoundland and Labrador Workplace Health, Safety and  
Compensation Commission (WorkplaceNL),  
The Newfoundland and Labrador Workplace Health, Safety &  
Compensation Review Division  
The Yukon Workers' Compensation Health and Safety Board  
(YWCHSB),  
The YWCHSB Appeal Tribunal,  
The Northwest Territories/Nunavut Workers' Safety and  
Compensation Commission (WSCC)  
The WSCC Appeals Tribunal

Paul Taylor, plaintiff